

IN THE UNITED STATES JUDICIAL DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

DONNIE GREEN,

Plaintiff,

v.

CAPITAL ONE,

Defendant.

**REPORT AND  
RECOMMENDATION TO  
DISMISS**

Case No. 2:11-CV-311 TC

District Judge Tena Campbell

Magistrate Judge David Nuffer

This case was referred to the magistrate judge to conduct an initial pretrial conference under [DUCivR72-1](#). Such a conference was scheduled 12/07/2011, but the pro se Plaintiff failed to appear.<sup>1</sup> The court therefore issued an order to show cause why the case should not be dismissed. Plaintiff was specifically ordered to inform the Court of the status of the case and intentions to proceed.<sup>2</sup>

Plaintiff failed to respond in writing as requested in Order to Show Cause.

Based on the failures of Plaintiff to appear at the hearing or participate in developing a schedule in the case, and failure to respond to the order to show cause:

**RECOMMENDATION**

IT IS RECOMMENDED THAT the case be dismissed without prejudice.

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<sup>1</sup> Docket no. 28 filed December 7, 2011.

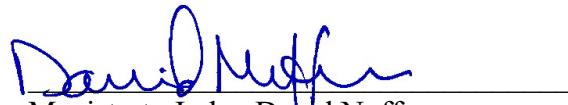
<sup>2</sup> Docket no. 27 filed December 7, 2011.

**NOTICE TO PARTIES**

Within 14 days after being served with a copy of this recommended disposition, a party may serve and file specific, written objections.<sup>3</sup> A party may respond to another party's objections within 14 days after being served with a copy thereof. The rules provide that the district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject or modify the recommended decision, receive further evidence, or re-commit the matter to the magistrate judge with instructions. Failure to file objections may constitute a waiver of those objections on subsequent appellate review.

Dated this 4<sup>th</sup> day January, 2012.

BY THE COURT



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Magistrate Judge David Nuffer

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<sup>3</sup> See 28 U.S.C. § 636(b)(1)(B).